IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 421 OF 2008

SHRI. AGOSTHINO GODINHO THROUGH ATTORNEY MRS. SHIRLEY GODINHO ... Petitioner

Versus

MARIA EUFREZITA PAULINA LYDIA FERNANDES E RODRIGUES AND ANR., ... Respondents

Mr. V. P. Thali, Advocate for the Petitioner.
Mr. A.F. Diniz, Advocate for the Respondents.

Coram:- N. A. BRITTO, J.

Date:- 27th February, 2009

ORAL ORDER:

Heard learned Counsel on behalf of the parties.

2. Perused the observations of the Apex Court in para 4 in the case of Madanlal V/s. Shyamlal (2001 DGLS (Soft.) 1414) and para 26 of Suray Dev Rai V/s. Ramchander Rai & Ors. (2003 (6) SCC 675).

3. There is no dispute that the documents which have been disallowed to be produced are admittedly public documents in proceedings between the same parties and not only that they were already produced on the record in the application for temporary injunction filed in the Civil Suit between the parties, as stated in para 3 of the application dated 20/08/2007. Only because they were not listed by the defendants due to inadvertence in a list or thereafter in application dated 1/04/2003, was no ground to refuse their production.

4. In the light of the above, the petition succeeds. The impugned order is hereby set aside to the extent that it disallowed the said documents. The

documents disallowed to be produced by the trial Court by order dated 25/02/2008 are now allowed to be produced by the defendant. Since the plaintiffs have closed their evidence, the matter of rebuttal of the evidence by the defendant in relation to the said documents is kept open to be decided by the trial Court.

N. A. BRITTO, J.

NH